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U.S.D.C. Rome

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

NOV 3 0 2004

LUTHER D. THOMAS, Clerk
By: *Rain Bow* Deputy Clerk

IN RE: TRI-STATE CREMATORY
LITIGATION

MDL DOCKET NO. 1467

This Affidavit relates ONLY to the
Funeral Home Settlements.

SUPPLEMENTAL AFFIDAVIT OF KIMBERLY K. NESS
WITH RESPECT TO UNPAID CLAIMS

STATE OF MINNESOTA }
 } ss.:
COUNTY OF RICE }

Kimberly K. Ness, being duly sworn, deposes and says:

1. I am a Senior Project Administrator for Rust Consulting, Inc. ("Rust Consulting"). My business address is 201 South Lyndale Avenue, Faribault, Minnesota 55021. My telephone number is (507) 333-4567. I am over twenty-one years of age and authorized to make this declaration on behalf of Rust Consulting, Inc. and myself.

2. Rust Consulting specializes in class action notification and claims administration, including telephone support and direct mail services. Rust Consulting has provided claims administration services for class action settlements containing up to 7 million class members in cases involving insurance, securities, product liability, fraud, property, employment and civil rights.

3. Rust Consulting was engaged to provide claims processing services in the Partial Settlements of several funeral homes involved the Tri-State Crematory Litigation.

Duties include: a) data entry of claims; b) review of claims for validity; c) mailing release and W-9 forms; and d) making payments for valid claims.

4. Linda L. Hamil and Joann Burcham submitted claim forms with regard to decedent Reed Moran Jr. in the Buckner-Rush Funeral Home Settlement. Since the filing of my last affidavit with respect to unpaid claims, Ms. Hamil contacted Plaintiffs' Lead Counsel with the request that the remaining claim amount be split between herself and Ms. Burcham. A letter was sent to both Ms. Hamil and Ms. Burcham, asking for written confirmation of the agreement to split the remaining amount. It is my understanding that through contact made with Plaintiffs' Lead Counsel, the claimants have indicated that they are not in agreement. As of this date, Rust has not received any additional information from Ms. Hamil or Ms. Burcham and the remainder of the claim continues to be held.

5. Carleton Andrew Chase McLain submitted a claim form completed by Judy King, his legal guardian, with regard to decedent Tony McLain in the Buckner-Rush Funeral Home Settlement. Since the filing of my last affidavit with regard to unpaid claims, a second letter was sent to the claimant's attorney, James Logan, indicating that payment would not be made on Mr. McLain's claim until a copy of a Tennessee Court Approval of a minor settlement was obtained. The letter indicates that a response is requested by December 6, 2004. As of this date, no response has been received, and therefore the claim continues to be held.

6. Amy Ward and Chad Little submitted claim forms with regard to decedent Marvin Ward in the Franklin-Strickland Funeral Home Settlement. I have reviewed the Response to the Filing of Affidavit of Kimberly K. Ness with Respect to Unpaid Claims

filed with the Court by Mr. David C. Higney and Ms. Mary Katherine Greene. Our office has not received any additional information regarding the claims made for Marvin Ward in the Franklin-Strickland Funeral Home Settlement, and the claims continue to be held based on Mr. Higney's letter of May 5, 2004, in which he states the attorneys for Ms. Ward intend to contest Chad Little's claim. Our office has not received any correspondence from any other party regarding Mr. Little's claim, but again, we continue to hold the claim based on Mr. Higney's letter, pending additional information.

7. Carl Keener submitted a claim form with regard to decedent Ann M. Keener in the Ewton Funeral Home Settlement. Since the filing of my last affidavit with regard to unpaid claims, no additional information has been received regarding this claim.

8. Donia Graham submitted a claim on behalf of Michael L Graham, a minor, with regard to decedent Steven D. Holt in the Sequatchie Valley Funeral Home Settlement. The decedent's sister, Frankie I. Nicholson, has also filed a claim for this decedent and disputes the claim for Michael L. Graham, on the basis that he is not the child of the decedent. Rust Consulting is holding the claim pending resolution of the dispute.

9. Sherry Esslinger submitted a claim form regarding decedent Robert L. Hutton in the Turner Funeral Home Settlement. The decedent's brother and sister, Jim Hutton and Barbara Brown, also submitted claim forms, and dispute the claim of Ms. Esslinger. Mr. Hutton claims that all of the decedent's children's last names are Goldizen and Ms. Brown suggests that Rust Consulting request proof of paternity from any claimant other than herself and her brother. Rust Consulting is holding the claim pending resolution of the dispute.

I declare, under penalty of perjury, under the laws of the State of Minnesota, that the foregoing is true and correct to the best of my knowledge. Executed this 29th day of November 2004, in Faribault, Minnesota.

Kimberly K. Ness
Kimberly K. Ness

Sworn and subscribed to before
me this 29th day of November, 2004.

Virginia L. Sartor
Notary Public

